

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
POWER COMPANY FOR (1) A GENERAL	)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC	)	CASE NO.
SERVICE; (2) AN ORDER APPROVING ITS 2017	)	2017-00179
ENVIRONMENTAL COMPLIANCE PLAN; (3) AN	)	
ORDER APPROVING ITS TARIFFS AND RIDERS;	)	
(4) AN ORDER APPROVING ACCOUNTING	)	
PRACTICES TO ESTABLISH REGULATORY	)	
ASSETS AND LIABILITIES; AND (5) AN ORDER	)	
GRANTING ALL OTHER REQUIRED APPROVALS	)	
AND RELIEF	)	

ORDER

This matter arises upon the motion of Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, "Walmart") filed June 12, 2017, for full intervention. As a basis for its motion to intervene, Walmart states that it has multiple facilities in Kentucky that are served by Kentucky Power Company ("Kentucky Power"), that it purchases more than 34 million kilowatt-hours annually from Kentucky Power, principally under Rate Schedules LGS and QP,<sup>1</sup> and that electricity is one of Walmart's highest operating costs. Walmart also states it has an interest in this proceeding that would not be represented by any other party, and that it is unique in being a single commercial customer that purchases substantial amounts of electricity and related services from Kentucky Power pursuant to

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<sup>1</sup> Although in its motion, Walmart references purchasing electricity from Kentucky Power under rate schedule QP, that rate schedule was eliminated two years ago, and Walmart currently purchases electric service from Kentucky Power under tariffs L.G.S. and I.G.S.

multiple accounts at multiple locations, all of which could be adversely affected by Kentucky Power's proposed rate increase.

At a July 24, 2017 hearing held to assist the Commission in reaching a decision on pending motions to intervene, the Commission received testimony in support of Walmart's request to intervene from its representative Gregory Tillman. Mr. Tillman testified that Walmart has a unique load profile, with stores operating nonstop throughout the week and that all of its accounts, locations, and operations are affected by the Kentucky Power's proposed rate increases. Mr. Tillman further testified that Walmart's unique interest is not represented by any other party to this proceeding, and that its participation will assist the Commission in making a final determination in this matter.

Based on the motion to intervene and hearing testimony, and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.<sup>2</sup> The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under regulation.<sup>3</sup> The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."<sup>4</sup>

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<sup>2</sup> *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

<sup>3</sup> *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

<sup>4</sup> *Id.* at 3.

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that Walmart is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission, being otherwise sufficiently advised, finds that the motion should be granted.

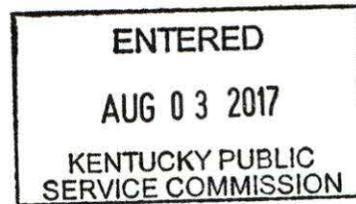
IT IS HEREBY ORDERED that:

1. The motion of Walmart to intervene is granted.
2. Walmart shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Walmart shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. Walmart shall adhere to the procedural schedule set forth in the Commission's July 17, 2017 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, Walmart shall file a written statement, with a copy to parties of record, that:

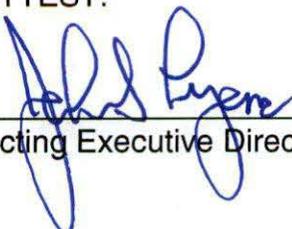
a. Affirms that it, or its agent, possesses the facilities to receive electronic transmissions;

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission



ATTEST:

  
\_\_\_\_\_  
Acting Executive Director

Case No. 2017-00179

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